

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA
vs.
JONATHAN DANIEL KUTEJ (1)

MOTION IN LIMINE

TO THE HONORABLE JUDGE TERRY R. MEANS:

NOW COMES the Defendant, JONATHAN DANIEL KUTEJ (1), who by and through the undersigned counsel, moves this Honorable Court before the trial in limine for an order instructing the United States Attorney, her representatives and witnesses to refrain from making any direct or indirect mention whatsoever at trial before the jury of any possible extraneous crimes or misconduct by the Defendant, other than those specifically set out in the information presented in the above-entitled and numbered cause, and for which the Defendant is now being tried, or any crimes or misconduct of the above-described Defendant unless said Defendant was charged by indictment, information or complaint, with the commission of an offense and on trial on such indictment, information or complaint a final conviction has resulted, and until a hearing has been held outside the presence of the jury to determine the following:

1. Whether the conviction involves either a felony or a misdemeanor involving moral turpitude,
2. Whether the conviction has occurred at a time sufficiently recent to have some bearing on the present credibility of the Defendant,
3. Whether the prejudicial effect of impeachment will outweigh the probative relevance of the prior conviction to the issue of credibility,

4. Whether the witness sought to be impeached is the same person previously convicted, and as grounds therefore, the Defendant would respectfully show unto this Honorable Court the following:

I.

That should the United States Attorney be allowed to introduce evidence, make reference to, cross-examine with regard to, or in any way leave the jury with an impression with regard to any other extraneous crimes or misconduct by said Defendant, other than those specifically set out in the information presented in the above-entitled and numbered cause, and for which the Defendant is now being tried; or any crimes or misconduct of the above-described Defendant unless said Defendant was charged by indictment, information or complaint, with the commission of an offense and on trial on such indictment, information or complaint a final conviction has resulted, the United States Attorney would be getting the jury facts of other extraneous offenses other than the ones for which the Defendant stands tried herein, and which are remote in time and do not go to the truthfulness and veracity of said witness, or that the Defendant had committed an offense for which he was charged and convicted and that same would be prejudicial and harmful to the Defendant and immaterial and unnecessary to the disposition of this case, contrary to the rules of evidence recognized by the laws of the United States of America and would be allowing the United States of America to get before the jury evidence that would otherwise be inadmissible.

II.

That an ordinary objection during the course of the trial, even sustained with proper instruction to the jury, would not remove such effect in view of the highly prejudicial nature of said evidence.

WHEREFORE, the Defendant respectfully prays that this Honorable Court order and instruct the United States Attorney, his representatives and witnesses not to offer or elicit any testimony respecting, allude to, mention, refer to, or cross-examine with respect to any misconduct or alleged violation of the law of said witness, and to instruct the United States Attorney, its representatives and its witnesses to refrain from offering or eliciting any testimony respecting, allude to, mention, refer to or cross-examine with respect to any prior convictions of said witness in the presence and hearing of the jury and until a hearing has been held outside the presence of the jury and before this Honorable Court to determine the relevant factors set out above regarding prior convictions of witnesses.

Respectfully submitted,

s/J. Warren St. John
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ATTORNEY FOR DEFENDANT (1)

CERTIFICATE OF CONFERENCE

I hereby certify that on August 18, 2014, my office corresponded with Ms. Aisha Saleem in order to determine whether she would or would not oppose the foregoing Motion in Limine. Ms. Saleem was unavailable.

s/J. Warren St. John
J. WARREN ST. JOHN

Attorney for Defendant (1)

CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2014, I electronically filed the foregoing document with the clerk for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means: Ms. Aisha Saleem.

s/J. Warren St. John
J. WARREN ST. JOHN

Attorney for Defendant (1)